Testamentary Case No. 05 of 2005
In the Goods of Late Most. Radhika Kunwar
(In the matter of an application under Section 273 and 278 of the Indian Succession Act, 1925.)
Mahendra Kumar Chaubey :---------- Applicant
…….
For the Applicant :- M/S Laxmi Narayan Das, Subroteshwar De & Amitabh Sohan, Advocates.

For the Respondent :- Sri Arjun Prasad Singh, Advocate.

P R E S E N T

HON'BLE MR. JUSTICE V.N.SINHA.

V.N.Sinha,J. The applicant, who is the son-in-law of Late Most. Radhika Kunwar; has filed this application under Sections 273 and 278 of the Indian Succession Act, 1925 (hereinafter referred to as "the Act") for grant of Letters of Administration of the last Will and testament executed on 5.1.1997 by his mother-in-law Most. Radhika Kunwar, whereunder Most. Radhika Kunwar bequeathed her entire properties situate at Ranchi Town and in villages Anchala Nawadih and Loto in the District-Garhwa, Jharkhand as detailed in Schedule-A of this application in favour of her two daughters, namely, Smt. Bimla Chaubey and Smt. Nirmala Chaubey with further request that the Letters of Administration should have effect throughout the territory of India.

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2.It appears from the perusal of paragraphs 3 & 4 of the instant application filed before this Court on 5.8.2005 that the testatrix had fixed place of abode at Patna. It further appears from the original Will dated 5.1.1997, Exhibit-1 executed by Most. Radhika Kunwar that the Will has been executed by Most. Radhika Kunwar in presence of five attesting witnesses, namely, M/S Sri Prasad Tiwary, Tribhuwan Chaubey, Shatrughan Prasad Singh, Mahendra Kumar Chaubey, the applicant himself and Nand Lal Chaubey. The left thumb impression of Most. Radhika Kunwar over each and every page of the Will was identified by Sri Tribhuwan Narayan Singh, Assistant Engineer, Sone Canal

Division, Khagaul, Patna. Two near relatives named in this application Smt. Bimla Chaubey and Smt. Nirmala Chaubey who also happens to be the two daughters of the testatrix were noticed by this Court. Near relative no.-1 Smt. Bimla Chaubey personally received the notice but she did not appear before this Court through her counsel. Near relative no.-2 Smt. Nirmala Chaubey filed affidavit dated 26.4.2007 stating that she has no objection if Letters of Administration is granted in favour of the applicant.

3.General citation was published in two local daily newspapers, namely, The Times of India and Hindustan, both Patna edition on 26.10.2005 but none appeared to oppose the grant of Letters of Administration in favour of the applicant.

4.In support of the prayer made in the instant application, the applicant examined three witnesses besides himself. P.W.-1 Sri Nand Lal Chaubey and Sri Shatrughan Prasad Singh, P.W.-4 are the attesting witnesses over the Will. The attesting witnesses identified the original will executed by Most. Radhika Kunwar which was marked as Exhibit-1. They also identified the left thumb impression of the testatrix over each page of the Will dated 5.1.1997 which was marked as Exhibit-2 series. The witnesses also identified their own signature over the Will which were marked as Exhibit-3 and 5 respectively. P.W.-2 Sri Tribhuwan Narayan Singh also identified the Will and the left thumb impression of the testatrix over the Will as also his own signature, Exhibit-4. The applicant Mahendra Kumar Chaubey examined himself as P.W.-3 and he stated in his deposition that the testatrix Most. Radhika Kunwar was his mother-in-law. She had executed her last Will on 5.1.1997 by putting her left thumb impression on every page of the Will which was identified by Sri Tribhuwan Narayan Singh, P.W.-2. Thereafter she requested the five attesting witnesses, namely, M/S Sri Prasad Tiwary,

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Tribhuwan Chaubey, Shatrughan Prasad Singh, P.W.-4, Mahendra Kumar Chaubey (applicant, P.W.-3) and Nand Lal Chaubey P.W.-1 to sign over the Will as witnesses. On her request the five witnesses put their signature over the Will in one sitting in presence of the testatrix. At the time of execution of the Will the testatrix was in sound state of body and mind. The witnesses further stated in their depositions that the Will was executed by Most. Radhika Kunwar without any pressure or influence from any person.

5.Having perused the instant application, the original Will dated 5.1.1997 and deposition of four witnesses, I am satisfied that Most. Radhika Kunwar duly executed her Will on 5.1.1997 in presence of five attesting witnesses which was her last Will and testament. The testatrix Most. Radhika Kunwar executed her Will in sound state of body and mind without any pressure, in favour of her two daughters, namely, Smt. Bimla Chaubey and Smt. Nirmala Chaubey.

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6.In the circumstances, the prayer made in this application to grant Letters of Administration of the last Will and testament dated 5.1.1997 executed by Most. Radhika Kunwar in favour of applicant is allowed.

7.Let the Letters of Administration annexing a copy of Will dated 5.1.1997 executed by Most. Radhika Kunwar be granted in favour of the applicant which shall have effect throughout the territory of India.

(V. N. Sinha, J.)

The Patna High Court
The 23 day of September, 2008.
N.A.F.R./P. K. P.